

Media wars

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The parliament of Ukraine postponed the usual monthly event, the Government's day, twice, in a protest against the refusal of the national broadcasting authorities, the National TV Company and the National Radio Company, to broadcast the parliament's plenary session live. 289 MPs voted not to give the floor to the country's top appointed executive officials unless live broadcasting was restored. 277 MPs voted for ordering the Office of Attorney general to investigate the infringement on the law and post all materials in the Internet. 273 MPs supported the demand to give Speaker Oleksandr Tkachenko with the possibility to speak to the nation through the national television channels UT-1. Left-wingers and right-wingers alike, argued there was no sense for the parliament to listen to the government's report about the progress made in improving the current socio-economic situation and reducing wage and pension arrears since the session will not be accessible in real time via electronic media for the public.

To complete the action, the parliament authorized the parliamentary Committee for the Freedom of Speech and Information, led by Socialist Ivan Chyzh, and Oleksandr Yeliashkevych's ad hoc Commission for Monitoring the Observance of the Election Law to submit formal documents to the Central Election Commission, demanding to withdraw candidate Leonid Kuchma from the race. The initiative was supported by votes of 268 MPs, and rejected by 12 of 389 MPs present in the assembly hall. However, the Election Law does not provide for any mechanism of revoking a presidential candidate's official registration and/or withdrawing him/her for the race.

Responding to charges that the government blocked the broadcasting of the event deliberately in order to hide the truth about its wrongdoing from voters, Prime Minister Valery Pustovoitenko argued that "we have nothing to hide. The government is prepared to report about its performance with regards to payment of wage and pension arrears, and about Ukraine's liabilities." In his turn, he accused the parliament of obstructing all economic laws in order to cause further deterioration of the situation and preventing Leonid Kuchma's re-election. Minister of Finance Igor Mitiukov, traditionally blamed for the current disarray in Ukraine's finances, stated that "we have what to say to people", though did not go beyond stating that the current government had developed "a series of measures" to stabilize production and finish the wage and pension arrears.

Meanwhile, the conflict between the legislature and the executive branch has another angle to it. The move was yet another step in the clash between the parliament and the government for access to the electronic mass media and followed a formal demand, addressed to chairman of the National Television Broadcasting Company Vadym Dolganov, to provide air time for broadcasting Speaker Oleksandr Tkachenko's address to the nation. Giving reasons for his refusal, Mr. Dolganov referred to Article 33 of the Law "On Election of the President of Ukraine" that prohibited the inclusion of presidential candidates' campaign materials and/or political advertising to television and radio information programs, and argued that giving the Speaker opportunity to make his speech might infringe on other candidates' rights.

The current election legislation declares the equal access principle, granting free air time and newspaper space equally to all candidates. In addition to "granted" access to the media, every candidate has the right to buy air time and newspaper space from his or her own campaign funds (as stipulated by Paragraph 4 of Article 32 of the Election Law). Logically, such "paid" materials should be introduced and marked as political advertising, but nothing is attached to the predominant majority of the materials to let viewers and readers know what they are being offered. Meanwhile, Part 3 of Article 33 of the same law prohibits state-owned media to support "in any form" or show any kind of preference for any individual presidential candidate. Hence, it is unclear how the two articles should be interpreted in this context.

Paragraph 11 of Article 33 stipulates that candidates that combine running for presidency with their duties as civil servants may not use any resources, including their subordinates, for the purposes of their own campaigns. However, the law offers no mechanism of enforcing this prohibition, and no liability for violating it. Only three out of fifteen presidential candidates are not members of the parliament. One of the three is the incumbent president, another one is the mayor of Cherkassy, a city in Central Ukraine. A number of MPs running for presidency are leaders of parliamentary factions and committees. In other words, only one of the presidential candidates, Oleksandr Bazyliuk, is not a senior civil servant.

However, no law - either the Election Law or the Law on Advertising - mention the existence of "political advertising". In a move that can be described as "better late than never", on June 18, 1999, the Ukrainian parliament

adopted a resolution defining the notion of political advertising. Since the resolution does not have the force of the law, it remains an internal document for the Central Election Commission.

Sanctions, envisaged by the Election Law, are not imposed for any election-specific violations like for power abuse, breaking confidentiality of voting or deviations from the regulations of campaign funding but for crimes already enumerated in the current Criminal Code. Specifically, a candidate or his or her staff may face liability for overt harassment of voters, fraud, bribery, and libel. To date there have been no attempts to punish any candidate for violations, except the recent declaration of the Verkhovna Rada in support of Speaker Tkachenko's inceptive to force the incumbent president out of the race on charges of power abuse and misusing the media and other state resources for his own campaign. Ironically, when criticizing the incumbent president for curbing the freedom of speech and manipulating the media, the candidates, in fact, demand not the observance of this basic democratic principle, but a broader access to the media for themselves.

Many Ukrainians are skeptical about the status of the freedom of speech in this country. The major opposition national daily, the Den, published results of an Internet survey of 334 of its readers asked to share their perspectives on whether the citizens' right for freedom of speech and information is guaranteed (male - 86%, holders of university degrees - 87%, aged 20 to 40 - 69%, roughly speaking, likely voters of Yevhen Marchuk). Only 3% of the respondents said "yes, completely". 26% said that while the freedom of speech and information is guaranteed partially, information about some events and processes is often undergoes careful dosage. 40% said "rather, no" and argued that the freedom of speech goes as far as the information that is useful for the establishment. 28% said "obviously no", arguing that Ukraine was still at the very beginning of a long way towards democratic standards of the freedom of speech. 1% had a different view, 2% hesitated or did not answer the question.

According to results of an opinion poll conducted in June 1999 by Socis-Gallup and analyzed by the International Foundation for Electoral Systems (IFES), the proportion of 1,200 adult respondents throughout Ukraine who believe they receive "much" or "enough" information about political transformations in this country has increased from 24% in 1997 to 41% in 1999. Meanwhile, 64% of the respondents argue that the media are biased in presenting news favorably for individual presidential candidates and political parties, and only 10% think the media are absolutely neutral. The attitude of the national and subnational media to individual candidates may be seen from the amount of air time and newspaper space used for covering their activities. Although it seems natural that President Kuchma receives the broadest media coverage, the tendency of the media to ignore all other pretenders for the position of the head of the state does not seem natural at all.

A few days ago, a presentation organized by the Equal Access Committee (EAC) gathered about 70 journalists and representatives of assorted election campaign teams to offer results of independent television and press monitoring in Kyiv, Kharkiv, Donetsk, Dnipropetrovsk, Odessa, Mykolayiv, the Crimea, Lviv, Poltava and Chernivtsi. EAC chairman Oleksandr Chekmyshev believes that the interest to the observance of the equal access principle is linked to the initiative of Ivan Chyzh, MP, and member of the National Television and Radio Broadcasting Council Serhiy Aksionenko who had repeatedly told the media about violations of the current election law, i.e., inequality of candidates in terms of their abilities to use the media for their campaign purposes. According to Chyzh and Aksionenko, three major national channels give most of their election-oriented air time to the incumbent president. There have been repeated reports about violations of the election law by different candidates' campaign staffs. Though, neither Aksionenko, nor Chyzh, nor election campaign staffs could support their charges with figures gathered through regular media monitoring.

According to the EAC media monitoring results, within the past week, the incumbent president received 91 publications in the national press, of them 28 were negative, while Yevhen Marchuk and Oleksandr Tkachenko were mentioned by the press in 28 and 32 materials, respectively. In terms of allocated newspaper space, Leonid Kuchma was described on 22,642 cm². Among other candidates, only Oleksandr Tkachenko received more than 5,000 cm². Within the past week, the national and Kyiv-based television channels broadcast 71 pieces about Leonid Kuchma, while Yevhen Marchuk and Oleksandr Tkachenko received 20 and 19 materials, respectively. Oleksandr Moroz was covered in 16 television materials, and Volodymyr Oliynyk was mentioned in 14 materials due to his membership of the Kaniv Four, while other candidates were covered in 5 or less materials, and some were practically ignored. In terms of the allocated air time, within last week the incumbent president beat the record with having the chance to appeal to the nation from TV screens for the total of almost 5 hours and 16 minutes. Two other most covered candidates, Yevhen Marchuk and Oleksandr Tkachenko, received 46 and 31 minutes of air time, respectively. Although the mechanical calculations of timing and space does not reflect the complete picture of the current campaign, and although it is true that a number of presidential candidates can hardly blame anything except their own inability to attract the media attention, the disproportion in the opportunity of gaining access to the media is obvious. Meanwhile, the Election Law does not envisage any mechanism of challenging the outcome of the election even if there is proof of violation of the law in the course of the campaign.

